

REMARKS/ARGUMENTS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

The Examiner asked that Teflon be capitalized where ever it appears and accompanied by generic terminology in the specification. The word Teflon was previously capitalized. The specification has been amended to provide generic terminology as requested by the Examiner. The Examiner also asked that claims 6 and 14 be revised to replace Teflon with the generic terminology. Claims 6 and 14 have been amended above to refer to fluorine-type resin rather than Teflon. Reconsideration and withdrawal of the Examiner's objection is solicited.

Claims 1-19 are now pending.

Original claim 1, dependent claims 2-9 and newly presented claims 10 and 12-15 were rejected under 35 USC 103(a) as being unpatentable over Sugiyama (JP '577) in view of Champomier. Applicant respectfully traverses this rejection.

The present invention is directed to a conveying apparatus for guiding a rod-like ceramic molding. The conveyed product, the ceramic molding, is a very soft and weak product and it cannot be allowed to deform even slightly. In order to convey this hard to handle molding to a cutting process after extrusion and without deforming the molding, a plurality of pads are provided, each of which has a length less than half of the length of the ceramic block to be cut by the cutter from the ceramic molding. Thus, a plurality of pads is provided to convey a portion of the rod-like ceramic molding to be cut off as the ceramic block. Also, as a consequence, the distance from the molding machine to a position where the pads receive the molding can be shortened to thus prevent the molding from being deformed.

It is respectfully submitted that the invention is not anticipated by nor obvious from Sugiyama taken alone or in combination with Champomier.

Firstly, it is respectfully submitted that neither of the references cited by the Examiner relate to a conveying apparatus for guiding a ceramic molding and, furthermore, neither teach or suggest a conveying apparatus comprising pads, each of which is shorter than half of an axial length of a ceramic block to be cut by the cutter so that a cut portion is held and conveyed by two or more pads.

Sugiyama relates to the packing of boiled fish paste. Aside from the fact that Sugiyama conveys boiled fish paste and not a ceramic molding, it is clear that Sugiyama does not teach or suggest providing a plurality of pads for conveying each cutoff product. In this regard it can be clearly understood from Sugiyama that the fish material E is applied to the continuous and periodically pleated film 3A. The fish paste is then cut corresponding to the pleat in the film so that each segment of the conveyor (pad) supports a single cut block of fish paste. Then, as the "pads" separate, the film is severed so that the film extends beyond the block of fish paste. In this way, the packaging can be completed. As is clearly understood from Sugiyama, Sugiyama teaches "pads" having a surface for placing the fish paste but the placement surface of the "pad" has a length identically corresponding to the length of the fish paste to be cut by the cutter. Clearly, then, there is no teaching of the claimed relation between the size of the support for the molding and the molding itself, as required by claim 1, to wit the pad has an axial length shorter than one half of the axial length of the molding to be cut by the cutter. Thus, Sugiyama clearly does not meet the limitations of the conveying apparatus of applicant's claim 1.

It is respectfully submitted that the limitation of the size of the pad relative to the ceramic material to be cut by the cutter is a proper limitation of applicant's independent claim 1 that cannot be disregarded. In In re Venezia, 189 U.S.P.Q. 149 (C.C.P.A. 1976), in addressing a Section 112 rejection, the C.C.P.A. observed that the claimed invention included structural limitations on each part and those structural limitations were defined by how the parts are to be interconnected in the final assembly. Id. at 151. The court stated that the terms "adapted to be affixed" or

"when said housing is in its repositioned location", for example, define present structures or attributes of the parts identified, which limit that structure. The court further stated that there is nothing wrong in defining structures of the components of the completed assembly in terms of the interrelationship of the components, or the attributes they must possess. Id. at 152.

Furthermore, in Pac-Tec Inc. v. Amerace Corp., 14 U.S.P.Q. 2d 1871 (Fed. Cir. 1990) the CAFC affirmed the district court's finding that when considering the claims as wholes, functional language such as "adapted to" and "thereby", for example, constitute structural limitations, citing In re Venezia, and that functional language cannot be disregarded in such cases. Pac-Tec Inc. v. Amerace Corp., at 1876.

In view of the foregoing, it is respectfully submitted that the Examiner cannot disregard the pad length limitation set forth in applicant's claim 1.

Sugiyama also fails to teach the limitations of applicant's dependent claims. In this regard, claim 5 specifically requires that the placement surface of the pad be formed of a low resilience material that is easily deformable in conformity with the contour of the molding when in contact with the latter. The examiner has asserted that the film 3A would anticipate the use of a "low resilience material". Applicant respectfully but strongly disagrees. Film 3A is characterized as a packing film fed from film rolls 31 and 32. There is no teaching or suggestion whatsoever in Sugiyama that film 3A is of low resilience much less of foamed material. Quite the contrary the skilled artisan would understand this film to be a simple packaging film for being wrapped around the product and folded at the ends as illustrated in Sugiyama's Figures 4-7. Therefore, while the film is clearly flexible, flexibility is not equivalent to and does not anticipate "low resilience" or "foamed material"; the film can be folded and wrapped around the product, but there is nothing to suggest that the film itself is deformed (distorted) while on the pad in conformity with the contour of the product and there is certainly no teaching or suggestion of providing a film of foamed material in Sugiyama.

Rejections based on 35 USC §103 must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. The Examiner has initial duty of supplying the factual basis for the rejection. The Examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis. See In re Wanery, 379 F.2d 1011, 1017, 154 USPQ 173, 177-78 (CCPA 1967).

The cited reference to Sugiyama also clearly fails to anticipate the subject matter of applicant's dependent claim 8 which provides that the placement surface of each pad is part cylindrical. Each pad in Sugiyama is clearly flat. Thus claim 8 is not anticipated either.

The Examiner further cites the secondary reference to Champomier and alleges that it would be "obvious" to modify Sugiyama in view of Champomier to include an extruder. Even if the fish paste of Sugiyama were ejected from an extruder, the limitations of applicant's apparatus claims 1 and 10 would still not be anticipated nor obvious. Indeed, there still would not be any teaching of a conveying apparatus for guiding a ceramic molding including pads having a placement surface for placing the rod-like ceramic molding, the placement surface having an axial length less than half of an axial length of the ceramic block to be cut by the cutter so that the cut ceramic block is held and conveyed by two or more pads. Indeed, Champomier, just like Sugiyama, teaches a single support or pad for each severed molded portion. Thus, there is clearly no teaching or suggest of plural pads for each cut off molded portion. Champomier also fails to anticipate or render obvious providing a low resilience material that is easily deformable or a placement surface that is part cylindrical. It is therefore respectfully submitted that the invention claimed is not anticipated by nor obvious from Sugiyama taken alone or in combination with Champomier.

Claim 11 was rejected as unpatentable over Sugiyama in view of Champomier and further in view of Simon. Applicant respectfully traverses this rejection.

The invention is submitted to be distinct from Sugiyama and Champomier for the reasons advanced above. The Examiner's further reliance on Simon does not overcome the deficiencies of the primary combination noted above. It is further respectfully submitted that it would be unobvious to the skilled artisan without the benefit of applicant's disclosure to add a drying device to Sugiyama. As noted above, Sugiyama discloses an apparatus for molding and packaging boiled fish paste. It would be unobvious from the prior art cited by the Examiner to add a drying device to Sugiyama because Sugiyama does not teach or suggest that drying his boiled fish paste would be of any use or advantage. In this regard, Sugiyama does not teach or suggest that his apparatus is designed to or suitable for conveying anything that would require a drying device so the Examiner's suggested combination is not a combination that would be made by the skilled artisan without hindsight knowledge of applicant's claims. In any event, even if a drying device were added to Sugiyama, the pad size limitation of applicant's claims 1 ad 10 would still not be anticipated nor obvious.

Claims 16-19 were rejected under 35 USC 103(a) as being unpatentable over Sugiyama in view of Champomier and further in view of Miyakawa. Applicant respectfully traverses this rejection.

These claims are submitted to be patentable over Sugiyama and Champomier for the reasons advanced above. The Examiner's further reliance on Miyakawa does not overcome the deficiencies of the primary combination noted above.

The Examiner's argument that it would be obvious to further modify Sugiyama to include a cutting wire and honeycomb die is completely without any support in the record. Sugiyama is directed to a molding apparatus for molding and then packaging boiled fish paste. It would be unobvious to provide a honeycomb die for the boiled fish paste. Evidently, if one were to be forming a honeycomb ceramic body, the skilled

artisan would use the Miyakawa assembly and not Sugiyama. Indeed, Sugiyama is clearly and particularly designed for molding boiled fish paste, applying it to a packaging material, cutting the paste and then cutting the material after which the paste can be packaged. One skilled in this art without the benefit of applicant's disclosure would never envision the boiled fish paste molding and packing apparatus of Sugiyama to be in any way suited to molding a honeycomb ceramic body. Therefore, it is respectfully submitted that it would not have been obvious without the benefit of applicant's disclosure to select the isolated components of Miyakawa identified by the Examiner and unilaterally incorporate them in the boiled fish paste molding and packaging apparatus of Sugiyama.

It is clear that the initial burden of establishing a basis for denying patentability to a claimed invention rests upon the Examiner. In re Piasecki, 745 F. 2d 1468, 223 USPQ 785 (Fed. Cir. 1984). In establishing a *prima facie* case of obviousness under 35 U.S.C. § 103, it is incumbent upon the Examiner to provide a reason why one of ordinary skill in the art would have been led to arrive at the claimed invention from the prior art. Ex parte Clapp, 227 USPQ 972 (BPAI 1985).

As the CAFC has said, obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. ACS Hospital Systems v Montefiore Hospital, 221 USPQ 929, 933 (Fed. Cir. 1984). There must be a suggestion in the art relied upon to use what one reference discloses in or in combination with the disclosure of the other reference or references relied upon by the Examiner. In re Grabiak, 226 USPQ 870, 872 (Fed. Cir. 1986).


For all the reasons advanced above, reconsideration and withdrawal of the Examiner's prior art rejection of claims 16-19 is also solicited.

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All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

Respectfully submitted,

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